

§ 5.7

except when executive privilege is invoked by the President.

§ 5.7 Records of other agencies.

If a request is submitted to FEMA to make available current records which are the primary responsibility of another agency, FEMA will refer the request to the agency concerned for appropriate action. FEMA will advise the requester that the request has been forwarded to the responsible agency.

§ 5.8 Records involved in litigation or other judicial process.

Where there is reason to believe that any records requested may be involved in litigation or other judicial process in which the United States is a party, including discovery procedures pursuant to the Federal Rules of Civil Procedure or Federal Rules of Criminal Procedure, the request shall be referred to the General Counsel.

§ 5.9 Inconsistent issuances of FEMA and its predecessor agencies superseded.

Policies and procedures of any of FEMA's predecessor agencies inconsistent with this regulation are superseded to the extent of that inconsistency.

Subpart B—Publication of or Availability of General Agency Information, Rules, Orders, Policies, and Similar Material

§ 5.20 Publication of rules and general policies.

In accordance with 5 U.S.C. 552(a)(1), there are separately stated and currently published, or from time to time there will be published, in the FEDERAL REGISTER for the guidance of the public, the following general information concerning FEMA:

(a) Description of the organization of the Headquarters Office and regional and other offices and the established places at which, the employees from whom, and the methods whereby the public may obtain information, make submittals or requests, or obtain decisions.

(b) Statement of the general course and method by which FEMA functions are channeled and determined, includ-

44 CFR Ch. I (10–1–07 Edition)

ing the nature and requirements of all formal and informal procedures available.

(c) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations.

(d) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by FEMA.

(e) Each amendment, revision, or repeal of the materials described in this section. Much of this information will also be codified in this subchapter A.

§ 5.21 Effect of failure to publish.

5 U.S.C. 552(a)(1) provides that, except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or to be adversely affected by, a matter required to be published in the FEDERAL REGISTER and not so published.

§ 5.22 Coordination of publication.

The General Counsel, FEMA, is responsible for coordination of FEMA materials required to be published in the FEDERAL REGISTER.

§ 5.23 Incorporation by reference.

When deemed appropriate, matter covered by this subpart, which is reasonably available to the class of persons affected thereby may be incorporated by reference in the FEDERAL REGISTER in accordance with standards prescribed from time to time by the Director of the Federal Register (see 1 CFR part 51).

§ 5.24 Availability of opinions, orders, policies, interpretations, manuals, and instructions.

FEMA will make available for public inspection and copying the material described in 5 U.S.C. 552(a)(2) as enumerated in § 5.25 and an index of those materials as described in § 5.28, at convenient places and times.

§ 5.25 Available materials.

FEMA materials which are available under this subpart are as follows: